HIGH COURT OF UTTARANCHAL
AT NAINITAL
Criminal Revision No. 695 of 2001
(Old No. 1730 of 1985)

Avtar Singh and another ….. Applicant/ Revisionist

Versus

State of U.P. and another …. Opposite Party

Hon'ble B.C. Kandpal, J.

This criminal revision has been filed by the accused/revisionist Avtar Singh and Surendra Singh against the judgment and order dated 29.06.1985 passed by the Sessions Judge, Chamoli in criminal appeal No. 4 of 1985 dismissing the appeal and upholding the conviction of the revisionist under Section 342 I.P.C. and sentencing each of them a fine of Rs. 100/- and in default of payment of fine, one month simple imprisonment, passed by the C.J.M. Chamoli in criminal case no. 428 of 1981 between Banshi Lal Vs. Avatar Singh and another.

Brief facts of the case are that Smt. Sureshi Devi had gone to cut the grass and when she did not return, her husband Kundan Lal went in search of Smt. Sureshi Devi and near Patwari Chauki he found that Smt. Sureshi Devi was confined in the room and she was weeping. Smt. Sureshi Devi told Kundan Lal that when she was returning back with the heap of grass and was passing by the side of Patwari Chauki, Avatar Singh and his companion Surendra Singh brought her to the Chauki and outraged her modesty. When Kundan Lal asked the Patwari to release his wife then Patwari – Avatar Singh also arrested him. Thereafter the complainant Bansi Lal went in

search of aforesaid persons and reached to Patwari Chauki then he found that both the persons were locked in the chauki by the Patwari. Bansi Lal anyhow could arrange the release of Sureshi Devi and Kundan Lal. Thereafter, Bansi Lal filed a complaint against the Patwari and the case was started on the basis of that complaint.

The trial court i.e. learned C.J.M. Chamoli vide judgment and order dated 23.03.1985 convicted Avtar Singh and Surendra Singh under Section 342 I.P.C. and sentenced them fine of Rs. 100/- each of them, in default of payment of fine, one month simple imprisonment.

Against the aforesaid judgment both the convicts had preferred the appeal before the court of learned Sessions Judge, Chamoli who dismissed the appeal vide judgment and order dated 29.06.1985.

Feeling aggrieved against the aforesaid judgment and order passed in appeal both the convicted persons preferred this revision before the Allahabad High Court, which has been transferred to this Court after creation of Uttaranchal State, for disposal.

As Mr. M.S. Negi had preferred revision before the Allahabad High Court and his name is also listed in the cause list, hence, there was no need to issue the notice to the revisionists.

Heard learned counsel for the State and perused the record.

The judgments and orders passed by the courts below appear to be sound. Both the judgments have been passed after discussing the entire evidence on record in detail.

Smt. Sureshi Devi who is the victim in this case had clearly stated in her deposition that the accused persons (revisionists) had put their hands on her breast and body. Hence, there cannot be any clear cut case of outraging the modesty than what is clear from the statement of Smt. Sureshi Devi. Further the trial court convicted the accused (revisionists) under Section 342 I.P.C. but against their acquittal no appeal or revision has been preferred by the State. However, the appellate court has adopted a very lenient view by awarding very nominal punishment to the accused (revisionists).

I find myself in total agreement with the view adopted by the lower appellate court and I do not find any ground to interfere in the findings recorded by both the courts below.

Both the judgments of the courts below do not suffer with any illegality, impropriety or error of jurisdiction. The revision being devoid of merits is liable to be dismissed.

The revision is accordingly dismissed. The stay order dated 25.09.1985 stands vacated.

The court below be intimated with regard to the decision of this court so that the court below may proceed further in order to realize the fine from the accused (revisionists).

(B.C. Kandpal, J.)

July 22, 2004
ASWAL